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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 SAM KIM,

12 Plaintiff,

13 vs.

14 TWO JS CORPORATION D/B/A JACK'S  
15 LIQUOR; PICK TRUST; and DOES 1  
16 through 10,  
17 Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
VIOLATION OF:

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT, CAL CIV. CODE §§ 51 -  
52 et seq.;
3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA'S UNFAIR  
COMPETITION ACT, CAL BUS & PROF  
CODE § 17200, et seq.
5. NEGLIGENCE

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23  
24 Plaintiff SAM KIM ("Plaintiff") complains of Defendants TWO JS  
25 CORPORATION D/B/A JACK'S LIQUOR; PICK TRUST; and DOES 1 through 10  
26 ("Defendants") and alleges as follows:  
27  
28

**JURISDICTION AND VENUE**

1  
2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for  
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,  
5 arising from the same nucleus of operating facts, are also brought under California law,  
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
9 property which is the subject of this action is located in this district, in Los Angeles, Los  
10 Angeles County, California, and that Plaintiff's causes of action arose in this district.

**PARTIES**

11  
12 4. Plaintiff is a California resident with a physical disability with substantial  
13 limitation in his ability to walk. Plaintiff has hemiplegia and requires the use of a  
14 wheelchair at all times when traveling in public.

15 5. Defendants are, or were at the time of the incident, the real property owners,  
16 business operators, lessors and/or lessees of the real property for JACK'S LIQUOR  
17 ("Business") located at or about 3720 W. Olympic Blvd., Los Angeles, California.

18 6. The true names and capacities, whether individual, corporate, associate or  
19 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
20 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
21 Court to amend this Complaint when the true names and capacities have been  
22 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
23 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
24 Plaintiff for the acts herein alleged.

25 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
26 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
27 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
28

1 the things alleged herein was acting with the knowledge and consent of the other  
 2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or  
 4 failure to act by a defendant or Defendants, such allegations and references shall also be  
 5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
 6 and severally.

### 7 **FACTUAL ALLEGATIONS**

8 9. On or about November 2, 2018, Plaintiff went to the Business. On or about  
 9 December 17, 2018, Plaintiff returned to the Business. The Business is a liquor and  
 10 convenience store business establishment, which is open to the public, is a place of public  
 11 accommodation and affects commerce through its operation.

12 10. While attempting to enter the Business during each visit, Plaintiff personally  
 13 encountered a number of barriers that interfered with his ability to use and enjoy the  
 14 goods, services, privileges, and accommodations offered at the Business. To the extent  
 15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not  
 16 limited to, the following:

- 17 a. Defendants failed to comply with the federal and state standards for  
 18 the parking space designated for persons with disabilities. Defendants  
 19 failed to provide the parking space identification sign with the  
 20 International Symbol of Accessibility.
- 21 b. Defendants failed to comply with the federal and state standards for  
 22 the parking space designated for persons with disabilities. Defendants  
 23 failed to post required signage such as "Van Access," "Minimum Fine  
 24 \$250" or "Unauthorized Parking."
- 25 c. Defendant failed to maintain the parking space designated for persons  
 26 with disabilities to comply with the federal and state standards.  
 27 Defendants failed to paint the ground as required.

- d. Defendants failed to maintain the parking space designated for persons with disabilities to comply with the federal and state standards. Defendants failed to provide proper van accessible space designated for the persons with disabilities.
- e. Defendants failed to maintain the parking space designated for persons with disabilities to comply with the federal and state standards. Defendants failed to mark the space with the International Symbol of Accessibility.
- f. Defendants failed to provide adequate number of parking spaces designated for persons with disabilities.
- g. Defendant failed to maintain the parking space designated for persons with disabilities to comply with the federal and state standards.

There were potholes in the designed parking spaces.

11. These barriers and conditions denied Plaintiff the full and equal access to the Business. The Business is conveniently located. Plaintiff wishes to patronize the Business again, however, Plaintiff is deterred from visiting the Business because his knowledge of these violations prevents him from returning until the barriers are removed.

12. Based on the violations, Plaintiff alleges, on information and belief, that there are additional barriers to accessibility at the Business after further site inspection. Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

13. In addition, Plaintiff alleges, on information and belief, that Defendants knew that particular barriers render the Business inaccessible, violate state and federal law, and interfere with access for the physically disabled.

14. At all relevant times, Defendants had and still have control and dominion over the conditions at this location and had and still have the financial resources to remove these barriers without much difficulty or expenses to make the Business accessible to the physically disabled in compliance with ADDAG and Title 24

1 regulations. Defendants have not removed such barriers and have not modified the  
2 Business to conform to accessibility regulations.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

5 15. Plaintiff incorporates by reference each of the allegations in all prior  
6 paragraphs in this complaint.

7 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
8 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
9 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
10 public accommodation by any person who owns, leases, or leases to, or operates a place  
11 of public accommodation. *See* 42 U.S.C. § 12182(a).

12 17. Discrimination, *inter alia*, includes:

- 13 a. A failure to make reasonable modification in policies, practices, or  
14 procedures, when such modifications are necessary to afford such  
15 goods, services, facilities, privileges, advantages, or accommodations  
16 to individuals with disabilities, unless the entity can demonstrate that  
17 making such modifications would fundamentally alter the nature of  
18 such goods, services, facilities, privileges, advantages, or  
19 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 20 b. A failure to take such steps as may be necessary to ensure that no  
21 individual with a disability is excluded, denied services, segregated or  
22 otherwise treated differently than other individuals because of the  
23 absence of auxiliary aids and services, unless the entity can  
24 demonstrate that taking such steps would fundamentally alter the  
25 nature of the good, service, facility, privilege, advantage, or  
26 accommodation being offered or would result in an undue burden. 42  
27 U.S.C. § 12182(b)(2)(A)(iii).
- 28

- 1 c. A failure to remove architectural barriers, and communication barriers  
2 that are structural in nature, in existing facilities, and transportation  
3 barriers in existing vehicles and rail passenger cars used by an  
4 establishment for transporting individuals (not including barriers that  
5 can only be removed through the retrofitting of vehicles or rail  
6 passenger cars by the installation of a hydraulic or other lift), where  
7 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 8 d. A failure to make alterations in such a manner that, to the maximum  
9 extent feasible, the altered portions of the facility are readily  
10 accessible to and usable by individuals with disabilities, including  
11 individuals who use wheelchairs or to ensure that, to the maximum  
12 extent feasible, the path of travel to the altered area and the  
13 bathrooms, telephones, and drinking fountains serving the altered  
14 area, are readily accessible to and usable by individuals with  
15 disabilities where such alterations to the path or travel or the  
16 bathrooms, telephones, and drinking fountains serving the altered  
17 area are not disproportionate to the overall alterations in terms of cost  
18 and scope. 42 U.S.C. § 12183(a)(2).

19 18. Where parking spaces are provided, accessible parking spaces shall be  
20 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
21 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
22 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
23 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
24 be van parking space. 2010 ADA Standards § 208.2.4.

25 19. Under the ADA, the method and color of marking are to be addressed by  
26 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California  
27 Building Code (“CBC”), the parking space identification signs shall include the  
28 International Symbol of Accessibility. Parking identification signs shall be reflectorized

1 with a minimum area of 70 square inches. Additional language or an additional sign  
2 below the International Symbol of Accessibility shall state "Minimum Fine \$250." A  
3 parking space identification sign shall be permanently posted immediately adjacent and  
4 visible from each parking space, shall be located with its centerline a maximum of 12  
5 inches from the centerline of the parking space and may be posted on a wall at the  
6 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

7 20. Moreover, an additional sign shall be posted either in a conspicuous place at  
8 each entrance to an off-street parking facility or immediately adjacent to on-site  
9 accessible parking and visible from each parking space. The additional sign shall not be  
10 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
11 letters with a minimum height of 1 inch the following: "Unauthorized vehicles parked in  
12 designated accessible spaces not displaying distinguishing placards or special license  
13 plates issued for persons with disabilities will be towed always at the owner's expense..."  
14 *See* CBC § 11B-502.8, *et seq.*

15 21. Here, Defendants failed to provide the parking space identification sign with  
16 the International Symbol of Accessibility. In addition, Defendants failed to provide signs  
17 stating "Minimum fine \$250" or "Van Accessible." Moreover, Defendants failed to  
18 provide the additional sign with the specific languages stating "Unauthorized vehicles  
19 parked in designated accessible spaces not displaying distinguishing placards or special  
20 license plates issued for persons with disabilities will be towed always at the owner's  
21 expense..."

22 22. For the parking spaces, access aisles shall be marked with a blue painted  
23 borderline around their perimeter. The area within the blue borderlines shall be marked  
24 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
25 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
26 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
27 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
28 11B-502.3.3.



1           23. Here, Defendants failed to properly maintain the access aisles as Defendants  
2 had failed to paint “NO PARKING” on the parking surfaces. There were also potholes  
3 on the parking surfaces making it difficult to move around with a wheelchair. Moreover,  
4 Defendants failed to provide the access aisle with the minimum width of 96 inches. In  
5 addition, Defendants failed to provide adequate number of parking spaces designated for  
6 persons with disabilities.

7           24. The surface of each accessible car and van space shall have surface  
8 identification complying with either of the following options: The outline of a profile  
9 view of a wheel chair with occupant in white on a blue background a minimum 36” wide  
10 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
11 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
12 length of the parking space and its lower side or corner aligned with the end of the  
13 parking space length or by outlining or painting the parking space in blue and outlining  
14 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
15 occupant. *See* CBC § 11B-502.6.4, *et seq.*

16           25. Here, Defendants failed to properly paint the International Symbol of  
17 Accessibility on the surface as required. The Symbol paintings had faded on the surface.

18           26. A public accommodation shall maintain in operable working condition those  
19 features of facilities and equipment that are required to be readily accessible to and usable  
20 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to  
21 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in  
22 violation of Plaintiff’s rights under the ADA and its related regulations.

23           27. The Business has denied and continues to deny full and equal access to  
24 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
25 discriminated against due to the lack of accessible facilities, and therefore, seeks  
26 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
27 by individuals with disabilities.

28                           **SECOND CAUSE OF ACTION**



**VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

28. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

29. California Civil Code § 51 states, “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”

30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial, or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

31. California Civil Code § 51(f) specifies, “a violation of the right of any individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

32. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, facilities, privileges, or services by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. Defendants have discriminated against Plaintiff in violation of California Civil Code §§ 51 and 52.

33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

**THIRD CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

34. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, loading places, places of public accommodations, amusement, or resort, and other places in which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

36. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

37. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

1           38. The actions and omissions of Defendants alleged herein constitute a denial  
2 of full and equal accommodation, advantages, and facilities by physically disabled  
3 persons within the meaning of California Civil Code § 54. Defendants have  
4 discriminated against Plaintiff in violation of California Civil Code § 54.

5           39. The violations of the California Disabled Persons Act caused Plaintiff to  
6 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
7 statutory damages as specified in California Civil Code §55.56(a)-(c).

8                           **FOURTH CAUSE OF ACTION**

9                           **UNFAIR COMPETITION ACT**

10           40. Plaintiff incorporates by reference each of the allegations in all prior  
11 paragraphs in this complaint.

12           41. Defendants have engaged in unfair competition, unfair or fraudulent  
13 business practices, and unfair, deceptive, untrue or misleading advertising in violation of  
14 the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

15           42. Defendants engage in business practices and policies that create systemic  
16 barriers to full and equal access for people with disability in violation of state and federal  
17 law.

18           43. The actions and omissions of Defendants are unfair and injurious to  
19 Plaintiff, a consumer of the Business' goods and services. As a result of Defendants'  
20 unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not  
21 provided with goods and services provided to other consumers. Plaintiff seeks relief  
22 necessary to prevent Defendants' continued unfair business practices and policies and  
23 restitution of any month that Defendants acquired by means of such unfair competition,  
24 including profits unfairly obtained.

25                           **FIFTH CAUSE OF ACTION**

26                           **NEGLIGENCE**

27           44. Plaintiff incorporates by reference each of the allegations in all prior  
28 paragraphs in this complaint.

